

MINERAL KING ACT OF 1996

OCTOBER 3, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 3534]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3534) to authorize the Secretary of the Interior to renew certain permits in the Mineral King Addition of the Sequoia National Park and to protect historic and cultural resources in that National Park, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike section 3 of the bill.

PURPOSE OF THE BILL

The purpose of H.R. 3534 is to extend the existing law authorizing the National Park Service to continue to issue special use permits to cabin owners at Mineral King in Sequoia National Park after the death of the current permittee of record.

BACKGROUND AND NEED FOR LEGISLATION

There is no accurate count of persons living within areas designated by Congress as units of the national park system, either on private property or on federally-owned property. For example, at one point at the Indiana Dunes National Lakeshore, there were

over 700 hundred use and occupancy agreements at that park alone.

Individuals currently reside inside parks under three basic sets of conditions. The first is on private property within the park boundary which has not yet been acquired by the federal government. The second is when property has been acquired by the federal government under terms of a use and occupancy agreement. The third is when the federal government permits persons to reside on federal lands.

Since 1972, acquisition of federal lands has been guided by the Uniform Relocation and Assistance Act. That law generally provides for the government to authorize the lease back of an improved residence which has been acquired for up to 25 years or the life of the occupant, depending on any limitations contained in the specific authorizing statute. For example, if the federal government is acquiring the area for road construction purposes, the resident would typically not be offered a life time estate. The homeowner pays for this extended use of the property through a reduction in the purchase price paid by the government. These persons have a property right which is reflected as a use and occupancy agreement. Such use of the property can be bought and sold.

Some persons have claimed that in the 1970s, when the federal government was acquiring extensive lands for park purposes, some of the acquisition was heavy-handed. There has been testimony that some residents may not have been fully advised of their rights, and there were a number of bitter land acquisition disputes across the park system. Congress has addressed this issue at least once before, when an Act was passed which permitted residents of Minute Man National Historic Park to extend their original use and occupancy agreements (Public Law 102-488).

The history of the National Park Service permitting persons to use park lands for residential purposes is less clear. Typically these situations arise due to prevailing conditions at the time of park establishment. However, there has been a wide discrepancy among parks with regard to how any generic authority is interpreted. Some park superintendents claim they have no authority to permit such non-park residential use of the land, while others have seen no problem with the issuance of special use permits for residential purposes.

Mineral King was U.S. Forest Service land added to Sequoia-Kings Canyon National Park in the 1970s to prevent Disney from developing a ski area. When the land was added, there were a number of residents within the addition: both persons who owned their property and persons who occupied cabins under a special use permit from the Forest Service. The legislation establishing the area stated that such "special use" permits would only be issued to the owner or lessee of record at the time. Now, nearly 20 years after enactment of the original law, some original owners have died and their heirs are seeking to continue their permits.

COMMITTEE ACTION

H.R. 3534 was introduced on May 23, 1996, by Congressman George P. Radanovich (R-CA). The bill was referred to the Committee on Resources, and within the Committee to the Subcommit-

tee on National Parks, Forests and Lands. On November 14, 1995, the Subcommittee held a hearing on H.R. 2528, a bill which is similar in content to H.R. 3534. On June 13, 1996, the Subcommittee met to mark up H.R. 3534. The bill was adopted by voice vote. The bill was then ordered favorably reported to the Full Committee in the presence of a quorum. On July 17, 1996, the Full Resources Committee met to consider H.R. 3534. Congressman Bill Richardson (D-NM) offered an amendment in the nature of a substitute; it failed by a rollcall vote of 8 to 25, as follows:

Members	Yeas	Nays	Present	Members	Yeas	Nays	Present
Mr. Young (Chairman)		X		Mr. Miller			
Mr. Tauzin				Mr. Markey			
Mr. Hansen				Mr. Rahall			
Mr. Saxton		X		Mr. Vento			
Mr. Gallegly				Mr. Kildee	X		
Mr. Duncan	X			Mr. Williams			
Mr. Hefley		X		Mr. Gejdenson		X	
Mr. Doolittle		X		Mr. Richardson	X		
Mr. Allard		X		Mr. DeFazio			
Mr. Gilchrest		X		Mr. Faleomavaega		X	
Mr. Calvert		X		Mr. Johnson	X		
Mr. Pombo		X		Mr. Abercrombie		X	
Mr. Torkildsen				Mr. Studds			
Mr. Hayworth		X		Mr. Ortiz		X	
Mr. Cremeans		X		Mr. Pickett		X	
Mrs. Cubin		X		Mr. Pallone	X		
Mr. Cooley				Mr. Dooley		X	
Mrs. Chenoweth		X		Mr. Romero-Barceló	X		
Mrs. Smith				Mr. Hinchey	X		
Mr. Radanovich		X		Mr. Underwood			
Mr. Jones		X		Mr. Farr		X	
Mr. Thornberry		X		Mr. Kennedy	X		
Mr. Hastings		X					
Mr. Metcalf		X					
Mr. Longley							
Mr. Shadegg							
Mr. Ensign		X					

Congressman Richardson then offered an amendment to delete section 3 of the bill; it was adopted by voice vote. The bill as amended was then ordered favorably reported to the House of Representatives, in the presence of a quorum.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Section 1 provides the short title of the bill.

SECTION 2. RENEWAL OF CERTAIN HISTORIC CABIN PERMITS IN THE MINERAL KING ADDITION OF THE SEQUOIA NATIONAL PARK

Section 2 amends the 1978 statute adding the Mineral King area to Sequoia-Kings Canyon National Park by specifically authorizing the National Park Service to issue cabin leases to the heirs of the original permittees of record until the death of the last permittee of record. It is not clear whether the National Park Service has such generic authority, although a number of park superintendents are currently permitting such residential use.

The language of the bill requires permittees to pay fair market value for such use, and specifically provides for protection of park resources and termination of the use if lands are needed for other purposes. The legislation provides that the Secretary of the Interior must have the funds to implement the alternative use, rather than simply prepare a plan calling for such use. The Committee does not believe that these persons should be forced out of their cabins until the alternative use is a reality.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 3534 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 3534. However, clause 7(d) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(1)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 3534 does not contain any new budget authority, credit authority, or an increase or decrease in tax expenditures. Additional revenues of less than \$10,000 a year could be generated under the bill from reissued special-use permits, of which one-third could be spent without further appropriation to administer the special-use permits.

2. With respect to the requirement of clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 3534.

3. With respect to the requirement of clause 2(1)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 3534 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
 CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 26, 1996.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
 House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3534, the Mineral King Act of 1996, as ordered reported by the House Committee on Resources on July 17, 1996. We estimate that enacting this bill would have no significant effect on the federal budget. H.R. 3534 could affect direct spending; therefore, pay-as-you-go procedures would apply. However, any such effect would be less than \$10,000 annually over the next five years.

H.R. 3534 would authorize the Secretary of the Interior to review or extend certain special-use permits or leases for cabins in the Mineral King addition of the Sequoia National Park. At present, the National Park Service (NPS) may only issue these five-year permits to the original property owner or lessee of record at the time that the agency assumed jurisdiction of the Mineral King area from the Forest Service. The bill would allow any heirs of the original permittees or lessees to continue to use the cabins under renewed permits until the last original permittee of record dies. The heirs would be required to pay annual fees in the same manner as current permittees.

Based on information provided by the NPS, we estimate that fewer than ten special-use permits would be reissued over the next five as a result of this legislation. At current annual fee levels, the NPS would collect a total of less than \$10,000 a year from the new permittees. About one-third of the amounts collected would be spent without further appropriation to administer the special-use permits.

H.R. 3534 contains no private-sector or intergovernmental mandates as defined in Public Law 104-4 and would impose no costs on state, local, or tribal governments.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

JUNE E. O'NEILL, *Director.*

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 3534 contains no unfunded mandates.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in *italic* and existing law in which no change is proposed is shown in *roman*):

**SECTION 314 OF THE NATIONAL PARKS AND
RECREATION ACT OF 1978**

ADDITION OF MINERAL KING VALLEY TO SEQUOIA NATIONAL PARK

SEC. 314. (a) * * *

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(d)(1) * * *

(2)(A) Except in the case of a lease or permit which the Secretary determines to be incompatible with the administration of the park pursuant to this section, any lease or permit on Federal land within the area added to the park under this section which is in effect immediately before the enactment of this Act shall continue in effect pursuant to its terms and conditions following the expansion of the park under this section.

* * * * *

(C)(i) Notwithstanding subparagraphs (A) and (B), until the date of the death of the last cabin permittee of record on the date of enactment of this Act, the Secretary may renew or extend permits or leases continued under subparagraph (A) or (B) to the heirs of lessees or permittees (including heirs to whom such leases or permits have been renewed or extended) who have died prior to the enactment of this subparagraph or may die after its enactment in the same manner (including by requiring the payment of annual fees based on fair market value) as leases or permits may be renewed or extended under subparagraph (b), unless—

(I) the permit or lease is incompatible with the protection of the parks resources; or

(II) the land occupied under the leases or permit will be used for some other park purpose in accordance with the comprehensive management plan prepared under subsection (e), and the Secretary has available sufficient funds to carry out such use.

(ii) For the purposes of this subparagraph, the term “heirs” means—

(I) those family members of the deceased permittee or lessee, designated by the permittee or lessee, in a manner prescribed by the Secretary, as heirs eligible for renewals or extensions under this subparagraph, and

(II) in the absence of such designation, those family members of the deceased permittee or lease who are entitled to inherit the estate of the permittee or lessee.

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DISSENTING VIEWS OF REPRESENTATIVE BILL
RICHARDSON

At its heart, H.R. 3534 would authorize private individuals to have the exclusive use of publicly-owned national park land for years to come. The bill would also change the clear terms of language previously enacted into law. These private individuals want a second bite of the apple. From the viewpoint they want to continue the deal they had for as long as they can and force the abandonment of the phasing out of private permits in the Sequoia National Park. From both a procedural and public policy standpoint, this is not an action I believe we should be embarking on.

H.R. 3534 is special interest legislation for the select few at the expense of the many. Contrary to some assertions being made, this is not an eviction. The 1978 law is very clear that permits could be renewed only to permittees of record as of that date. Permittees have signed 3 permit extensions knowing full well that such permits could not be passed on. If anyone is being evicted here it is the public, the over 20,000 people who visit this area each summer and are denied full use of the area all because of the special benefit afforded a select 67 permittees.

We have been told that we should extend this special privilege to the heirs, otherwise abandoned cabins will sit empty and pose a hazard and an eyesore. Well if these cabins are a hazard and an eyesore it is because of the actions of the permittees themselves. It has come to my attention that cabin permits include a requirement that once the permit has lapsed the permittee is to remove the cabin and return the site to its natural condition. Instead, what is happening is that permittees are violating the terms of the permit and abandoning the cabins, leaving it to the National Park Service to clean up the mess.

We have also heard proponents say that they are making this authority to extend the permits discretionary and requiring fair market value. However, the bill goes on to tie the National Park Service's hand in making a determination not to renew. Worse, the bill reopens the issue for any permit that has expired in the last 18 years. Frankly, this bill is a bad attempt to punt on an issue for the next 35 or more years, at which time a future Congress can expect these same permittees' heirs back asking for another extension.

H.R. 3534 is not in the public's interest and should be rejected.
BILL RICHARDSON.

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